IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.2410 OF 2005

Ebrahim Mohammed Kasu, .. Petitioner

Vs

1. The State of Maharashtra

and ors. .. Respondents

Mr E.M.Shaikh with Mr P.L.Bhujbal, for the petitioner.

Mr S.R.nargolkar, AGP for R.Nos 1 to 3.

Mr S.E.surana with Mr C.N.Gole, for R.No.4.

CORAM : V.G.PALSHIKAR & D.B.BHOSALE,JJ.

DATE : 18.10.2005.

PC:

1. Rule. Returnable forthwith. Respondents waive service. Heard the learned counsel for the parties.

2. By the impugned order, the Maharashtra Slum Area Tribunal, while considering and deciding Misc. Civil Application No.41 of 2004 seeking condonation of delay in filing the appeal, not only condoned the delay but also allowed the appeal and set aside the declaration made in 1979.

3. Interest of justice would be met if the impugned order dated 22.9.2004 is set aside. Hence, order.

(i) The impugned order dated 22.9.2004 is set aside. The matter is remitted back to the Appellate Tribunal with a direction to first decide the application for condonation of delay and then deal with the appeal on merits in accordance with law.

(ii) The appellant before the Tribunal shall join the present petitioner as party respondent.

(iii) The Misc Application and also the appeal be decided as far as possible within three months from the date of receipt of this order.

(iv) The writ petition, accordingly, disposed of.

. Parties and all concerned to act on an authenticated copy of this order.

(D.B.BHOSALE, J.) **(V.G.PALSHIKAR, J.)**